



February 9, 2001

SENATE BILL No. 247

DIGEST OF SB 247 (Updated February 7, 2001 5:42 PM - DI 106)

Citations Affected: IC 20-12; IC 31-37; IC 35-50; noncode.

Synopsis: Possession of firearms by minors. Provides for a nonsuspendible period of incarceration. Makes dangerous possession of a firearm by a child who is less than 16 years of age a delinquent act under the exclusive jurisdiction of the juvenile court. (Current law does not address the appropriate jurisdiction for a case involving the dangerous possession of a firearm by a child who is less than 16 years of age.) Provides for a minimum period of confinement in a secure facility for violations by a child less than 16 years of age that occur in a public safety improvement area established by the city legislative body in Indianapolis, Fort Wayne, Evansville, Gary, South Bend, Hammond, Muncie, Bloomington, Anderson, Terre Haute, Kokomo, Lafayette, Elkhart, Mishawaka, Richmond, or New Albany. Makes conforming changes.

Effective: July 1, 2001.

**Clark, Lanane, Broden,
Young R Michael, Howard**

January 9, 2001, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.
February 8, 2001, amended, reported favorably — Do Pass.

SB 247—LS 6021/DI 51+



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February 9, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 247

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 20-12-70-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. As used in this
3 chapter, "eligible student" means a student who meets the following
4 requirements:

5 (1) Is a resident of Indiana.

6 (2) Is enrolled in grade 8 at a public or an accredited nonpublic
7 school.

8 (3) Is eligible for free or reduced priced lunches under the
9 national school lunch program.

10 (4) Agrees in writing, together with the student's custodial parents
11 or guardian, that the student will:

12 (A) graduate from a secondary school located in Indiana that
13 meets the admission criteria of an institution of higher
14 learning;

15 (B) not illegally use controlled substances (as defined in
16 IC 35-48-1-9);

17 (C) not commit a crime or infraction described in IC 9-30-5;

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(D) not commit any other crime or delinquent act (as described in IC 31-37-1-2, **IC 31-37-1-3**, or IC 31-37-2-2 through IC 31-37-2-5 (or IC 31-6-4-1(a)(1) through IC 31-6-4-1(a)(5) before their repeal));

(E) when the eligible student is a senior in high school, timely apply:

- (i) to an institution of higher learning for admission; and
- (ii) for any federal and state student financial assistance available to the eligible student to attend an institution of higher learning; and

(F) achieve a cumulative grade point average upon graduation of at least 2.0 on a 4.0 grading scale (or its equivalent if another grading scale is used) for courses taken during grades 9, 10, 11, and 12.

SECTION 2. IC 20-12-70-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. As used in this chapter, "scholarship applicant" means a student who meets the following requirements:

- (1) Was an eligible student under section 2 of this chapter.
- (2) Is a resident of Indiana.
- (3) Has graduated from a secondary school located in Indiana that meets the admission criteria of an institution of higher learning.
- (4) Has applied to attend and has been accepted to attend an institution of higher learning as a full-time student.
- (5) Certifies in writing that the student has:
 - (A) not illegally used controlled substances (as defined in IC 35-48-1-9);
 - (B) not illegally consumed alcoholic beverages;
 - (C) not committed any other crime or a delinquent act (as described in IC 31-37-1-2, **IC 31-37-1-3**, or IC 31-37-2-2 through IC 31-37-2-5 (or IC 31-6-4-1(a)(1) through IC 31-6-4-1(a)(5) before their repeal)); and
 - (D) timely filed an application for other types of financial assistance available to the student from the state or federal government.

SECTION 3. IC 31-37-1-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 3. A child commits a delinquent act if, before becoming sixteen (16) years of age, the child violates IC 35-47-10-5.**

SECTION 4. IC 31-37-19-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 28. (a) This section applies if,**



before becoming sixteen (16) years of age, a child commits a delinquent act described in IC 31-37-1-3 and the violation is committed in a public safety improvement area established under IC 36-8-19.5.

(b) If the child is adjudicated a delinquent child, the court shall order:

(1) confinement of the child in a secure facility authorized under this chapter; or

(2) placement of the child in a facility that uses a quasi-military program for rehabilitative purposes; for one hundred twenty (120) days. Notwithstanding IC 11-10-2-5, the department of correction may not reduce the period ordered under this section.

SECTION 5. IC 35-50-2-2, AS AMENDED BY P.L.188-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence:

(1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.

(2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.

(3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

(A) murder (IC 35-42-1-1);

(B) battery (IC 35-42-2-1) with a deadly weapon;

(C) sexual battery (IC 35-42-4-8) with a deadly weapon;



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- 1 (D) kidnapping (IC 35-42-3-2);
 2 (E) confinement (IC 35-42-3-3) with a deadly weapon;
 3 (F) rape (IC 35-42-4-1) as a Class A felony;
 4 (G) criminal deviate conduct (IC 35-42-4-2) as a Class A
 5 felony;
 6 (H) child molesting (IC 35-42-4-3) as a Class A or Class B
 7 felony;
 8 (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or
 9 with a deadly weapon;
 10 (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily
 11 injury;
 12 (K) burglary (IC 35-43-2-1) resulting in serious bodily injury
 13 or with a deadly weapon;
 14 (L) resisting law enforcement (IC 35-44-3-3) with a deadly
 15 weapon;
 16 (M) escape (IC 35-44-3-5) with a deadly weapon;
 17 (N) rioting (IC 35-45-1-2) with a deadly weapon;
 18 (O) dealing in cocaine or a narcotic drug (IC 35-48-4-1) as a
 19 Class A felony;
 20 (P) dealing in a schedule I, II, or III controlled substance (IC
 21 35-48-4-2) if the amount of controlled substance involved has
 22 an aggregate weight of three (3) grams or more;
 23 (Q) an offense under IC 9-30-5 (operating a vehicle while
 24 intoxicated) and the person who committed the offense has
 25 accumulated at least two (2) prior unrelated convictions under
 26 IC 9-30-5; or
 27 (R) aggravated battery (IC 35-42-2-1.5).
- 28 (c) Except as provided in subsection (e), whenever the court
 29 suspends a sentence for a felony, it shall place the person on probation
 30 under IC 35-38-2 for a fixed period to end not later than the date that
 31 the maximum sentence that may be imposed for the felony will expire.
- 32 (d) The minimum sentence for a person convicted of voluntary
 33 manslaughter may not be suspended unless the court finds at the
 34 sentencing hearing that the crime was not committed by means of a
 35 deadly weapon.
- 36 (e) Whenever the court suspends that part of an offender's (as
 37 defined in IC 5-2-12-4) sentence that is suspendible under subsection
 38 (b), the court shall place the offender on probation under IC 35-38-2 for
 39 not more than ten (10) years.
- 40 (f) An additional term of imprisonment imposed under
 41 IC 35-50-2-11 may not be suspended.
- 42 (g) A term of imprisonment imposed under IC 35-47-10-6 or

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1 IC 35-47-10-7 may not be suspended if the commission of the offense
2 was knowing or intentional.

3 (h) A term of imprisonment imposed for an offense under
4 IC 35-48-4-6(b)(1)(B) may not be suspended.

5 (i) A court may suspend only that part of the term of
6 imprisonment that is in excess of the minimum sentence for an
7 offense under IC 35-47-10-5 if:

8 (1) the offender is at least sixteen (16) years of age;

9 (2) the commission of the offense involved the knowing or
10 intentional possession of a firearm that was capable of being
11 concealed on the body, in the clothing, or under the clothing
12 of the offender; and

13 (3) the offense was committed in a public safety improvement
14 area established by IC 36-8-19.5.

15 The court may not place an offender described in this subsection
16 on home detention under IC 35-38-1-21 or in a community
17 correction program under IC 35-38-2.6.

18 SECTION 6. [EFFECTIVE JULY 1, 2001] IC 20-12-70-2,
19 IC 20-12-70-6, IC 35-47-10-5, and IC 35-50-2-2, all as amended by
20 this act, and IC 31-37-1-3 and IC 31-37-19-28, both as added by
21 this act, apply only to offenses committed after June 30, 2001.

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SENATE MOTION

Mr. President: I move that Senator Lanane be added as second author of Senate Bill 247.

CLARK

SENATE MOTION

Mr. President: I move that Senator Broden be added as coauthor of Senate Bill 247.

CLARK

SENATE MOTION

Mr. President: I move that Senators Young R Michael and Howard be added as coauthors of Senate Bill 247.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill No. 247, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 38, delete "if:" and insert "**if**,".

Page 2, line 39, delete "(1)".

Page 2, run in lines 38 through 39.

Page 2, line 40, delete "; and" and insert ".".

Page 2, delete lines 41 through 42.

Page 3, line 5, after "31-37-1-3" insert "**and the violation is committed in a public safety improvement area established under IC 36-8-19.5**".

Page 3, delete lines 15 through 25.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 0247 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 11, Nays 0.

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